

REMARKS

The Office Action sets forth a restriction requirement. Applicants respectfully traverse the restriction requirement, for reasons set forth below. Subject to the traverse, Applicants elect the invention of Group II (Claims 25-31), classified in Class 165, subclass 104.21.

As noted above, Applicants respectfully traverse the restriction requirement. The reasons for the traverse are as follows. First, the Office Action asserts that Group I contains claims drawn to a "heat exchanger", and that Group II includes method claims drawn to a method of operating a "heat exchanger". However, the term "heat exchanger" does not appear anywhere in any claim of the present application.

Second, the Office Action asserts that the claims of Group I (Claims 1-2, 7-8 and 17-22) are drawn to a "heat exchanger", but that certain claims of Group II (Claims 25-29) are drawn to an "apparatus". Applicants respectfully submit that there is no reasonable basis for this asserted distinction. In particular, independent Claims 1 and 25 each recite an "apparatus", and each go on to recite that the "apparatus" includes "a heat sink" which in turn includes: (1) "an enclosure" with a "highly thermally conductive portion" and a "cavity", (2) a "porous material", and (3) "a phase change material" provided in the cavity. The explanation of the restriction requirement which is set forth in the Office Action provides absolutely no clue as to why the "apparatus" which is recited in Claim 1 of Group I would be considered distinct from the "apparatus" which is recited in Claim 25 of Group II.

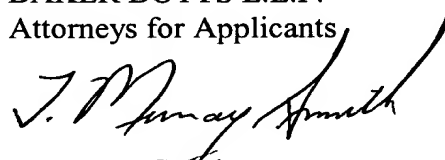
Third, the reason given in the Office Action for the restriction requirement is not consistent with the grouping of claims. In particular, the Office Action indicates that the claims of Group I are directed to a "product", and that the claims of Group II are directed to a "process of use". While this statement is accurate as to the claims of Group I, it is not accurate as to any of the claims of Group II. In particular, Claims 25-29 of Group II recite an "apparatus" (or in other words a product), rather than a process as asserted in the Office Action. Moreover, although Claims 30-31 of Group II are

process claims, the Office Action is not correct in asserting that they recite a process of using a product. What they recite is a process for operating the product itself (i.e. the internal operation of the product), rather than a process of using the product (i.e. process steps external to the product itself). The Office Action goes on to state that "the product as claimed can be used in a materially different process of using that product". It is respectfully submitted that this rationale makes no sense in light of considerations such as the fact that Group II includes pure "apparatus" claims, and also includes method claims that recite process steps internal to rather than external of the product.

In view of the foregoing problems, including the fact that the grouping of claims is not consistent with the wording of the claims, and the fact that the reasons given for the restriction requirement are not consistent with the wording of the claims or with the grouping of the claims, it is respectfully submitted that the restriction requirement is confusing and unclear. It is therefore respectfully submitted that the restriction requirement is improper, and it is respectfully requested that it be withdrawn.

Although Applicants believe that no additional fees are due, the Commissioner is hereby authorized to charge any fees required by this paper, or to credit any overpayment, to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants



T. Murray Smith
Reg. No. 30,222

2001 Ross Avenue
Dallas, Texas 75201-2980
(214) 953-6684

Date: May 23, 2000

Enclosures: Post Card